

1 KEVIN V. RYAN (CASBN 118321)
2 United States Attorney

3 EUMI L. CHOI (WVSBN 0722)
4 Chief, Criminal Division

5 ROBERT DAVID REES (CASBN 229441)
6 Assistant United States Attorney

7 450 Golden Gate Avenue, Box 36055
8 San Francisco, California 94102
9 Telephone: (415) 436-7210
10 Fax: (415) 436-7234

11 Attorneys for Plaintiff

12 UNITED STATES MAGISTRATE COURT

13 NORTHERN DISTRICT OF CALIFORNIA

14 SAN FRANCISCO DIVISION

15 UNITED STATES OF AMERICA,) No. 3 05 70552
16 Plaintiff,) [PROPOSED] ORDER AND
17 v.) STIPULATION FOR CONTINUANCE
18 SHEILA WHITTENBERG,) FROM OCTOBER 14, 2005 TO OCTOBER
19 Defendant.) 28, 2005 AND EXCLUDING TIME FROM
20 THE SPEEDY TRIAL ACT
21 CALCULATION (18 U.S.C. §
22 3161(h)(8)(A)) AND WAIVING TIME
23 LIMITS UNDER RULE 5.1

24 With the agreement of the parties, and with the consent of the defendant, the Court enters
25 this order scheduling an arraignment or preliminary hearing date of November 18, 2005 at
26 9:30A.M. before the duty magistrate judge, and documenting the defendant's waiver of the
27 preliminary hearing date under Federal Rule of Criminal Procedure 5.1 and the exclusion of time
28 under the Speedy Trial Act, 18 U.S.C. § 3161(b), from October 28, 2005 to November 18, 2005.

29 The parties agree, and the Court finds and holds, as follows:

- 30 1. The defendant has been released on her own recognizance.
- 31 2. The defendant agrees to an exclusion of time under the Speedy Trial Act, 18 U.S.C. §
32 3161(h)(8)(B)(iv) to provide continuity of counsel and reasonable time necessary for effective
33 preparation, taking into account the exercise of due diligence.
- 34 3. The defendant waives the time limits of Federal Rule of Criminal Procedure 5.1 for

1 preliminary hearing.

2 4. Counsel for the defense believes that postponing the preliminary hearing is in his
3 client's best interest, and that it is not in his client's interest for the United States to indict the
4 case during the normal 20-day timeline established in Rule 5.1.

5 5. The Court finds that, taking into the account the public interest in the prompt
6 disposition of criminal cases, these grounds are good cause for extending the time limits for a
7 preliminary hearing under Federal Rule of Criminal Procedure 5.1. Given these circumstances,
8 the Court finds that the ends of justice served by excluding the period from October 28, 2005 to
9 November 18, 2005, outweigh the best interest of the public and the defendant in a speedy trial.
10 § 3161(h)(8)(A).

11 6. Accordingly, and with the consent of the defendant, the Court (1) sets a preliminary
12 hearing date before the duty magistrate judge on November 18, 2005, at 9:30A.M., and (2) orders
13 that the period from October 28, 2005 to November 18, 2005 be excluded from the time period
14 for preliminary hearings under Federal Rule of Criminal Procedure 5.1 and from Speedy Trial
15 Act calculations under 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

16
17 IT IS SO STIPULATED:

18
19 DATED: _____

/s _____
20 RON TYLER
Attorney for Defendant

21
22 DATED: _____

/s _____
23 ROBERT DAVID REES
Assistant United States Attorney

24
25 IT IS SO ORDERED.

26
27 DATED: 11/2/05


28 HON. NANDOR VADAS
United States Magistrate Judge